

Floyd W. Bybee, #012651
BYBEE LAW CENTER, PLC
90 S. Kyrene Rd., Ste. 5
Chandler, AZ 85226-4687
Office: (480) 756-8822
Fax: (480) 302-4186
floyd@bybeelaw.com

Attorney for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Valerie A. Priser;

Plaintiff,

v.

Gatestone & Co. International, Inc.,

Defendant.

No.

COMPLAINT

(Jury Trial Demanded)

I. Preliminary Statement

1. Plaintiff brings this action for damages based upon Defendant's violations of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §§ 1692 *et seq.* Plaintiff seeks recovery of statutory damages, actual damages, costs and attorney's fees.

II. JURISDICTION

2. Jurisdiction of this Court, over this action and the parties herein, arises under 15 U.S.C. § 1692k(d) (FDCPA), and 28 U.S.C. § 1331. Venue lies

1 in the Tucson Division of the District of Arizona as Plaintiff's claims
2 arose from acts of the Defendant perpetrated therein.

3 **III. PARTIES**

4 3. Plaintiff resides in Pima County, Arizona.

5 4. Plaintiff is a natural person allegedly obligated to pay a debt.

6 5. Plaintiff is a "consumer" as that term is defined by FDCPA § 1692a(3).

7 6. Defendant Gatestone & Co. International Inc. is a Delaware corporation
8 doing business in Arizona as a collection agency (hereinafter
9 "Gatestone").

10 7. Gatestone is licensed and bonded as a collection agency by the Arizona
11 Department of Financial Institutions, license number 0903202.

12 8. Gatestone collects or attempts to collect debts owed or asserted to be
13 owed or due another.

14 9. Gatestone is a "debt collector" as that term is defined by FDCPA §
15 1692a(6).

16 **IV. Factual Allegations**

17 10. Beginning in March 2013, Gatestone began calling Plaintiff's work and
18 leaving messages on her voice mail.

19 11. When a call is placed to Plaintiff's place of work, it is answered by an
20 automated answering system which states "Thank you for calling Catalina
21 Mortgage. If you know your party's extension you may enter it at any
22 time," and also gives the caller various options to be directed to a
23 particular department.

24 12. If someone dials Plaintiff's extension, they receive a message stating
25 "This is Valerie Priser. I am either on the other line or away from my

1 office”

2 13. On or about March 19, 2013, a collector from Gatestone called Plaintiff’s
3 place of work, entered Plaintiff’s extension number and left a voice
4 message for Plaintiff.

5 14. The message stated:

6 Hi. Miss Priser. This is Mr. Singh. Please pick up your
7 phone. It is important that we speak. Hello. . . Miss
8 Priser. This is Mr. Singh.

8 15. In leaving the message, the Gatestone collector failed to meaningfully
9 disclose the identify the collection agency as required by the FDCPA, 15
10 U.S.C. §1692d(6).

11 16. The Gatestone collector also failed to notify Plaintiff in the message he
12 left that he was attempting to collect a debt and that any information
13 obtained will be used for that purpose, as required by the FDCPA, 15
14 U.S.C. §1692e(11).

15 17. On March 25, 2013, a Gatestone collector again called Plaintiff’s place of
16 work, entered Plaintiff’s extension number and left a voice message for
17 Plaintiff.

18 18. The message stated:

19 This message is for Valerie Priser. If you are not
20 Valerie Priser, or if some other party can hear this
21 message may contain personal and private
22 information, you should disconnect this call. By
23 continuing to listen you acknowledge that you are
24 Valerie Priser and no one else can hear this message.
25 There will be a three second pause to reconfirm.
Michael O’Leary calling from Gatestone. Gatestone is
a debt collector. This is an attempt to collect a debt
and any information obtained will be used for that
purpose. Contact my office. 8-6-6-2-5-1-2-3-9-6
extension 6-4-6-5.

- 1 19. Shortly after leaving each of these messages, Plaintiff received a call from
2 her employer notifying her that these messages had been left on her work
3 voice mail and that he had listened to them.
- 4 20. Upon learning of the messages left by Gatestone, Plaintiff was very
5 embarrassed and humiliated.
- 6 21. At the time these messages were left for Plaintiff, Gatestone was aware
7 that the messages were being left on Plaintiff's work number, and that
8 someone else may have access to and might listen to any voice message
9 left on the system.
- 10 22. On or about March 4, 2013, Gatestone sent Plaintiff a collection letter
11 attempting to collect on a debt allegedly owed to American Express.
- 12 23. According to Gatestone's letter, American Express had assigned an
13 alleged debt to Gatestone for collection purposes.
- 14 24. If Plaintiff owed the alleged defaulted debt to American Express, which
15 she does not admit, the debt would have been incurred solely for family,
16 personal or household purposes.
- 17 25. At the time these messages were left by Gatestone, Plaintiff was on family
18 medical leave taking care of her elderly mother who needed around-the-
19 clock care.
- 20 26. At the time these messages were left, Plaintiff was working remotely from
21 her home.
- 22 27. As a result and proximate cause of Defendant's actions, Plaintiff has
23 suffered actual damages, including, but not limited to, anxiety,
24 embarrassment, humiliation, and other emotional distress.
25

V. Causes of Action

a. Fair Debt Collection Practices Act

28. Plaintiff repeats, realleges, and incorporates by reference the foregoing paragraphs.
29. Defendant's violations of the FDCPA include, but are not necessarily limited to, 15 U.S.C. §§ 1692c(b), 1692d(6), and 1692e(11).
30. As a direct result and proximate cause of Defendant's actions in violation of the FDCPA, Plaintiff has suffered actual damages.

VI. DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial on all issues so triable.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that judgment be entered against Defendant for:

- a) Actual damages under the FDCPA;
- b) Statutory damages under the FDCPA;
- c) Costs and reasonable attorney's fees pursuant to the FDCPA; and
- d) Such other relief as may be just and proper.

DATED August 8, 2013.

s/ Floyd W. Bybee
Floyd W. Bybee, #012651
BYBEE LAW CENTER, PLC
90 S. Kyrene Rd., Ste. 5
Chandler, AZ 85226-4687
Office: (480) 756-8822
Fax: (480) 302-4186
floyd@bybeelaw.com

Attorney for Plaintiff